

REMARKS

Claims 1-67 remain for consideration. Claims 1, 15, 23, 28, 33, 37, 46, 54, 59, and 64 are amended to advance prosecution. All remaining claims are thought to be allowable over the cited art.

Applicants have amended Claims 1, 15, 33, 37, 46, and 64 to at least set forth "combining data from two or more portions of a data packet into a single portion, the single portion containing less data than the two or more portions combined to reduce an amount of data transmitted in the data transmission." Support for these limitations may be found at numerous places in the instant specification including paragraphs [0171]-[0176] and [0205].

Applicants have further amended Claims 23, 28, 54, and 59 to at least set forth "optionally allocating the data transmission into a plurality of data paths, each data path transmitting data at a bandwidth that is proportional to a ratio of the bandwidth of the data transmission to the determined number of transmission resources" and then "accessing the number of transmission resources to provide each data path to the target entity." Support for these limitations may be found at numerous places in the instant specification including paragraphs [0082], [0133], [0153], and [0209].

The remaining claims patentably distinguish over U.S. Patent No. 6,917,594 to Feuerstraeter et al. (hereinafter Feuerstraeter). In particular, Feuerstraeter seems to teach a solution that detects the fastest protocol that may be supported by a communication link on a computer network. (See column 5, lines 56-59). Apparently, Feuerstraeter conducts a series of transmission rate negotiation/error determination cycles to arrive at the fastest protocol that may be supported by the communication link. (See column 8, lines 9-15; column 9, lines 39-44, and column 9, line 60 to column 10, line 4). However, to obtain a transmission rate reduction based on error determination, Feuerstraeter merely reduces the rate of transmission, i.e., from a 100Base capability to a 10Base capability, (see column 6, lines 41-59), instead of combining two or more portions of a data packet into a single portion to reduce the number of bits transmitted, which is in contradistinction to Applicant's Claims 1, 15, 33, 37, 46, and 64 as amended.

Furthermore, Feuerstraeter seems to be completely silent as to the reduction of the rate of transmission by optionally allocating the transmission path into a plurality of data paths, where each data path is transmitting at a bandwidth that is proportional to a ratio of the bandwidth of the data transmission to the determined number of transmission resources, which is in contradistinction to Applicants' amended claims 23, 28, 54, and 59. Rather, Feuerstraeter seems to teach that only a single data path is used, i.e., no option to divide into multiple paths, and that the bandwidth is lowered, simply by reducing the data rate transmitted by that single data path. (See column 6, lines 41-59; column 9, line 60 to column 10, line 4). Applicants respectfully submit, therefore, that all remaining claims patentably distinguish over Feuerstraeter for at least the reasons stated above and are in condition for allowance.

The remaining claims also patentably distinguish over U.S. Patent No. 6,266,701 to Sridhar et al (hereinafter Sridhar). In particular, Sridhar seems to teach a communication solution, whereby various communication path segments may be combined to achieve a connection between a client computer and a server computer. (See column 8, lines 5-13). To achieve higher data throughput and lower latency, Sridhar appears to prefer the use of a remote communication path, which supports alternative transport and application layer protocols, such as XTP (see column 9, lines 31-33; column 10, lines 15-20).

In particular, Sridhar appears to prefer XTP over TCP, since XTP apparently provides rate control, whereby the rate at which data is sent along an XTP communication path may be explicitly lowered. (See column 12, lines 1-4). Thus, Sridhar appears to teach a method of rate control, whereby the clock rate of the data is reduced, rather than reducing the number of data bits to be transmitted by combining two or more portions of a data packet into a single portion, which is in contradistinction to Applicants' Claims 1, 15, 33, 37, 46, and 64 as amended.

Sridhar seems to further teach that while multiple TCP data paths may be used to provide data between two computers (see column 12, lines 28-37), Sridhar apparently fails to teach that the bandwidth supported by each of the TCP data paths is proportional to a ratio of the bandwidth of the data transmission to the number of TCP data paths provided, which is in contradistinction to Applicants' Claims 23, 28,

54, and 59 as amended. Applicants respectfully submit, therefore, that all remaining claims patentably distinguish over Sridhar and are in condition for allowance.

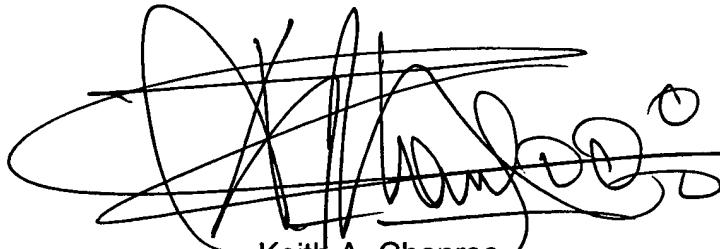
The remaining claims also patentably distinguish over U.S. Patent No. 6,618,360 to Scoville et al (hereinafter Scoville). In particular, Scoville seems to teach a method for testing a data path in one of three test modes. In the three test modes, Scoville appears to teach that peripheral ports and a number of bytes may be specified to implement each test. (See column 7, lines 5-8; column 7, lines 39-42; column 8, lines 11-14). Thus, it seems that while Scoville appears to teach that multiple ports may be opened to conduct a test, Scoville apparently does not teach that the bandwidth supported by each port is proportional to a ratio of the bandwidth of the data transmission to the number of ports provided, which is in contradistinction to Applicant's claims 23, 28, 54, and 59 as amended. Further, Scoville appears to be silent as to the reduction of the number of data bits to be transmitted by combining two or more portions of a data packet into a single portion, which is in contradistinction to Applicant's Claims 1, 15, 33, 37, 46, and 64 as amended. Applicants respectfully submit, therefore, that all remaining claims patentably distinguish over Scoville and are in condition for allowance.

Applicants further submit that Official Notice as to the use of different protocols, as purportedly disclosed by Tanenbaum's Computer Networks, is moot in view of the amendments made to Claims 1, 15, 23, 28, 33, 37, 46, 54, 59, and 64.

CONCLUSION

Reconsideration and a notice of allowance are respectfully requested in view of the amendments and remarks presented above. If the Examiner has any questions or concerns, a telephone call to the undersigned is invited.

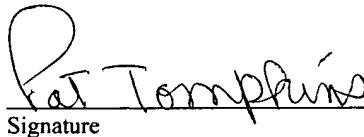
Respectfully submitted,



Keith A. Chanroo
Attorney for Applicants
Reg. No.: 36,480
(408) 879-7710

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on June 30, 2006.

Pat Tompkins
Name


Signature